

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

JAMES HAYDEN,)	CASE NO. 1:17CV2635
)	
Plaintiff,)	SENIOR JUDGE
)	CHRISTOPHER A. BOYKO
vs.)	
)	<u>AMENDED SCHEDULING ORDER</u>
2K GAMES, INC., et al.,)	
)	
Defendants.)	

CHRISTOPHER A. BOYKO, SR. J.:

Due to unavoidable circumstances of which all parties and counsel have been made aware, the Court enters the following amended schedule¹:

I. Trial

Jury Trial is set for **June 14, 2023 at 9:00 a.m ET.** in Courtroom 9-A of the Carl B. Stokes Courthouse, 801 W. Superior Avenue, Cleveland, Ohio.² Jury selection will be conducted by Magistrate Judge Jonathan D. Greenberg in Courtroom 9-A.

The Final Pre-Trial is set for **May 16, 2023 at 2:00 p.m. ET.**, to be held in Courtroom 328 East Chambers of the Howard Metzenbaum Courthouse, 201 Superior Avenue, Cleveland, Ohio.

¹ The parties shall comply with the provisions of the Court's Standing Civil Trial Order where it does not conflict with the terms of this Order.

² The parties are advised that this trial date is flexible, depending on the issuance of the decision by the Supreme Court in *Andy Warhol Foundation for Visual Arts, Inc. v. Goldsmith* which may determine a major issue in this action.

II. Trial Briefs and Related Filings.

The Court orders amended trial submissions in light of its summary judgment and *Daubert* rulings. Therefore, revised trial briefs, jury instructions, deposition designations and omnibus motions in limine are due by April 20, 2023. Oppositions to the omnibus motions in limine and objections to the deposition designations are due by May 4, 2023.

III. Interim Status Conference.

An in-person Attorney Status Conference is set for April 3, 2023 at 2:00 p.m. ET., in Courtroom 9-A of the Carl B. Stokes Courthouse. The parties shall be prepared to discuss the timing of the Supreme Court ruling in *Warhol*; to view the courtroom layout; and to inform the Court and the representatives of the Court's IT Department what technology is needed for trial presentation so that the parties' requirements can be accommodated.

IV. *Warhol* Briefing.

The Court orders contemporaneous briefing on the impact of the U. S. Supreme Court case of *Andy Warhol Foundation for Visual Arts, Inc. v. Goldsmith*, which was argued on October 12, 2022. The Court seeks the parties' input regarding "fair use," a defense which turns on whether the alleged copier's use is "transformative" and as well, a mixed law and fact question which the Court left for trial in this matter. The briefs, not to exceed 15 pages, are due by March 13, 2023.

IT IS SO ORDERED.

DATE: February 1, 2023

s/Christopher A. Boyko
CHRISTOPHER A. BOYKO
Senior United States District Judge